5-19-1919

Letter, 1919, May 19, Baltimore Process Company to Breweries

Baltimore Process Company

BALTIMORE PROCESS COMPANY
CONTINENTAL BUILDING
BALTIMORE, MD.

May 19, 1919.

Gentlemen:

With regard to the decision of Judge Augustus Hand, rendered on Saturday last in the Federal Court in New York City, three important points stand out.

The first is that the kind of beer prohibited by Wartime Prohibition is strictly intoxicating beer, and not near beer.

Second, the District Attorney may be enjoined from construing the law in such a way as to compel breweries to cease the manufacture of beer that is not intoxicating.

Third, that it is up to Congress to state exactly what type of beverages are covered under the Wartime Prohibition Act.

Judge Hand has appointed Friday of this week to listen to the argument with regard to what alcoholic content constitutes an intoxicating beer. Whatever decision he may render will, without doubt, be appealed to the Supreme Court of the United States for final decision.

In the mean time, it is difficult to forecast what action Congress will take which would wholly upset any action of the Federal Court. The fact that seven new prohibition members have been added to the Congress now in session will give you some idea of what may be expected. In any event, the whole matter seems near a solution.

THE NEW TAX

With regard to the tax on near beer, which is interpreted by the Revenue Department as being less than half of one percent of alcohol, the new "Regulation #52" is very complete. The main provisions set forth are as follows:

The tax imposed is 15% of the manufacturer's price at the time the beverage is sold.

Each manufacturer must make monthly returns on or before the last day of each month covering the transactions of the preceding month. Tax is to be paid at the time of the filing of this monthly return.

Ample provision is made against the manufacturer billing the beverage at a low price to a bottling establishment, owned by himself, in order to reduce the amount of tax paid. In all instances where the manufacturer participates in the profits of a resale of beverage, the tax is figured as 15% of the price at which the beverage is resold.

In cases where goods are consigned to be paid for when sold, the tax is not figured until they are actually billed to the consignee as a completed sale.

If the sales price of the beverage is increased to cover the tax, then the tax must be figured on the whole price, but where beverage is billed at a fixed price and the tax added to the bill as a separate item, the tax is not considered as an increase of the sales price. As an illustration - if you are selling near beer for $10. a barrel, and you add $1.50 a barrel to cover the tax, making the price at which you bill it $11.50 a barrel, the tax will be $1.73 a barrel, or 15% of $11.50, but if you bill your beer at $10. a barrel, and add $1.50 per barrel to the bill as a tax, you then pay 15% of $10.00, or $1.50 per barrel.

Commissions to agents and other expenses of sale cannot be deducted from the sales price in order to bring the tax down.

Where the beverage is sold for shipment to another point, the freight being paid as a separate item, then the freight does not become a part of the selling price upon which tax must be paid, but if the beverage is sold at a price "DELIVERED", the freight being prepaid, but not made a separate part of the bill, then the tax is paid on the price "DELIVERED."

The amount of tax to be paid includes both the beverage and the container. In the case of beverage in bottles, where the manufacturer refunds a specific amount upon the return of the bottles, he may credit in his monthly report the tax he has paid upon the amount of money he refunds for the return of the bottles. That is, each time he sends the bottles out, and the bottles are a part of the price charged for the beverage, he must

pay tax on the bottles, but each time they are returned, he can credit himself with the amount of money he refunds to his customer for the return of his bottles.

All tax is paid by the manufacturer, and while he may make an agreement to split the tax with his dealer, the dealer's proportion must be paid to the manufacturer, as the Revenue Department holds the manufacturer only.

The above covers the most important points in this regulation. We shall be pleased to forward you a full copy upon request. We shall also have a complete digest of Judge Hand's decision in the Federal Court last Saturday, and the one to be rendered after the hearing on Friday next, and should be very glad to forward you copies of either if you wish them.

Very truly yours,

BALTIMORE PROCESS COMPANY.